

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

ROGER T. MAHER, as Personal)	
Representative of the ESTATE OF)	
DAVID MAHER,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-15-264-D
)	
STATE OF OKLAHOMA <i>ex rel.</i>)	
OKLAHOMA TOURISM &)	
RECREATION DEPARTMENT,)	
<i>et al.</i> ,)	
)	
Defendants.)	

ORDER

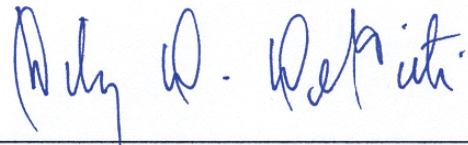
Before the Court is Plaintiff’s Motion for Rule 54(b) Certification of Final Judgment [Doc. No. 90]. Plaintiff asks the Court to certify for immediate appeal the Order of March 15, 2018 [Doc. No. 86], which granted summary judgment to Defendant Justin Young on Plaintiff’s action under 42 U.S.C. § 1983, but declined supplemental jurisdiction of a negligence claim and remanded the case to state court for resolution on the merits. Defendant Young has responded in opposition to the Motion on the ground that the relief sought is not appropriate. *See* Def.’s Resp. Br. [Doc. No. 92] at 1 (citing *Koch v. City of Del City*, 660 F.3d 1228, 1235 (10th Cir. 2011)).

Defendant Young is correct that the court of appeals expressly held in *Koch*, and had previously stated: “[W]here a district court resolves all federal claims and remands the remaining state-law claims to state court, there is nothing left to adjudicate, and thus an

appellate court has jurisdiction even in the absence of a Rule 54(b) certification.” *Koch*, 660 F.3d at 1235; *see Hyde Park Co. v. Santa Fe City Council*, 226 F.3d 1207, 1209 n.1 (10th Cir. 2000). The court of appeals also suggested in a footnote in *Koch*, however, that the district court’s entry of a separate judgment under Fed. R. Civ. P. 58 would have clarified the finality of its summary judgment order. *See Koch*, 660 F.3d at 1236 n.2. Accordingly, the Court will direct the entry of a separate judgment reflecting the final disposition of Plaintiff’s federal action.

IT IS THEREFORE ORDERED that Plaintiff’s Motion for Rule 54(b) Certification of Final Judgment [Doc. No. 90] is DENIED. A separate judgment shall be entered in accordance with the March 15 Order granting summary judgment to Defendant Young.

IT IS SO ORDERED this 27th day of April, 2018.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE